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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/914,747	11/27/2001	Reuven Wachtfogel	U013624-1	2667
140	7590	04/23/2007	EXAMINER	
LADAS & PARRY 26 WEST 61ST STREET NEW YORK, NY 10023			CHOWDHURY, SUMAIYA A	
			ART UNIT	PAPER NUMBER
			2623	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/23/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/914,747	WACHTFOGEL ET AL.	
	Examiner	Art Unit	
	Sumaiya A. Chowdhury	2623	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 2/2/07.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 85,88-92,145 and 164-197 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 85,88-92,145 and 164-197 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, see Remarks, filed 2/02/07, with respect to claims 85, 88-92, 145 and 164-197 have been fully considered and are persuasive. The Office Action of 10/13/06 has been withdrawn.

(a) Applicant argues "...in Zigmond the receiver determines whether to actually delay the advertisement or not" on page 12, 6<sup>th</sup> paragraph of the Remarks.

The Examiner agrees that in the embodiment previously cited in Zigmond, the receiver does the determination. The Examiner has therefore withdrew the previous Office Action, and has rejected the claim using the same Zigmond reference, but has cited a different embodiment more in line with the claimed invention.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 85, 88, 91-92, 145, 164, 167-169, 170-194, and 196 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond in view of Kauffman (5260778).

As for claim 85, Zigmond teaches a method for displaying advertisements transmitted to a user unit, the method comprising:

receiving, at the user unit, at least one advertisement tagged with a delay tag indicating whether display of the at least one advertisement can be delayed (Local time may be used to select an appropriate advertisement. Ad selection criteria could ensure that certain advertisements are shown at the time of day desired by the advertiser. i.e. showing "late night" vs. "primetime" ads. In other words, if it is currently primetime, the advertiser can select to have the ad displayed later at late night. Hence, the ad would be delayed as indicated in its delay tag. - col. 13, lines 59-67, col. 14, lines 13-24).

displaying said at least one advertisement without delay if said delay tag does not allow delaying display of said at least one advertisement (As discussed above, if it is currently primetime, and the advertiser selects to have the ad displayed now during primetime, it is displayed accordingly. - col. 13, lines 59-67, col. 14, lines 13-24), performing the following:

only if said delay tag allows delaying display of said at least one advertisement, performing the following:

storing said at least one advertisement at the user unit (If an ad is indicated by the advertiser to be displayed later during late-night, it is inherently stored at the receiver. - col. 13, lines 59-67, col. 14, lines 13-24)

retrieving and displaying said at least one advertisement in response to a selection made by the user (local selection; col. 8, lines 18-22).

Zigmond teaches the user can control ads by selecting an ad to view, but fails to teach the delay tag indicates so. Zigmond furthermore teaches the user can select which types of ads to block – col. 14, lines 24-35. However, Zigmond fails to teach the delay tag indicating whether a user of the user unit can control display of said at least one advertisement, and if the delay tag indicates the user unit can control display of said advertisement, retrieving and displaying it in response to a selection made by the user.

In an analogous, Kauffman teaches in the emergency broadcast system, the tag data contains control codes indicating whether the message should be stored for later recall by the subscriber, displayed immediately while blocking the selected video channel (i.e. override the current video program), or displayed immediately by overlaying a message over the current video program being viewed at the subscriber premises – col. 5, lines 48-55.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Zigmond's invention to include the above mentioned limitation, as taught by Kauffman, for the advantage of displaying content based on its priority. In other words, if it is very important, the code can be set to override whatever is being displayed. If not, it is stored at the receiver later retrieval and display.

As for claims 88 and 164, Zigmond and Kauffman teach wherein said delay tag also indicates a maximum allowed delay time period for displaying said at least one advertisement, and said displaying comprises:

displaying said at least one advertisement after said maximum allowed delay time period elapses if said at least one advertisement had not been displayed before said maximum allowed delay time period elapsed – (An advertiser specifies that its advertisement be shown during a particular program. During the broadcast of a 30 minute program, if the advertisement is not displayed yet, it will be displayed before the expiry of the 30 minutes. –see Zigmond, col. 12, lines 54-60).

As for claims 91 and 167, Zigmond and Kauffman teach wherein said delay tag is assigned a guaranteed delivery attribute (payment by advertiser) that forces the at least one advertisement to be displayed eventually – –see Zigmond, col. 14, lines 52-56.

As for claims 92 and 168, Zigmond and Kauffman teach wherein said delay tag is assigned the guaranteed delivery attribute in response to a payment for assigning the guaranteed delivery attribute – –see Zigmond, col. 14, lines 52-56.

Claims 145 and 169 contain the limitations of claim 1 and are analyzed as previously discussed with respect to that claim. Claims 145 and 169 additionally discloses the following which Zigmond teaches:

a memory (86 – Fig. 5);

a display (58 – Fig. 7) ;

Zigmond fails to teach:

a controller operatively associated with said receiver, said memory and said display and operative to store said at least one advertisement in said memory only if said delay tag allows delaying display of said at least one advertisement, and to retrieve said at least one advertisement from said memory for displaying said at least one advertisement on the display.

In an analogous, Kauffman teaches a controller (56 – fig. 2) operatively associated with said receiver, said memory and said display and operative to store said at least one advertisement in said memory only if said delay tag allows delaying display of said at least one advertisement, and to retrieve said at least one advertisement from said memory for displaying said at least one advertisement on the display – col. 5, lines 48-55.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Zigmond's invention to include the above mentioned limitation, as taught by Kauffman, for the advantage of displaying content based on its priority. In other words, if it is very important, the code can be set to override whatever is being displayed. If not, it is stored at the receiver later retrieval and display.

As for claims 170 and 182, Zigmond and Kauffman teaches wherein the at least one advertisement comprises the following:

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A video clip (see Zigmond, video – col. 11, lines 10-12);

Audio (see Zigmond, col. 11, lines 10-12); and

A combination comprising at least two of the following:

A video clip (see Zigmond, video – col. 11, lines 10-12);

Audio (see Zigmond, col. 11, lines 10-12).

As for claims 171 and 183, Zigmond and Kauffman teaches assigning the delay tag a value which is dependent on a length of the at least one advertisement – (The delay code is embedded in the programming which pauses the programming for the length of the advertisement —see Zigmond, col. 16, lines 35-42).

As for claims 172 and 184, Zigmond and Kauffman teach wherein the delay tag indicates that display of the at least one advertisement can be delayed when the at least one advertisement is 30 seconds long —see Zigmond, col. 16, lines 35-42.

As for claims 173 and 185, Zigmond and Kauffman teach wherein the delay tag indicates that display of the at least one advertisement cannot be delayed when the at least one advertisement is less than 30 seconds long —see Zigmond, col. 16, lines 35-42.



As for claim 174 and 186, Zigmond and Kauffman teach associating the delay tag with a commercial length tag which defines a length of the at least one advertisement –see Zigmond, col. 16, lines 35-42.

As for claims 175 and 187, Zigmond and Kauffman teach enabling a user of the user unit to determine for how long the user wishes to delay display of the at least one advertisement if a user delay option is allowed (Since the user selects when to view the advertisement, the user determines how long to delay the display of the advertisement –see Zigmond, col. 9, lines 28-31).

As for claim 176 and 188, Zigmond and Kauffman teach storing configuration information (software for displaying video programming and ads; program code for executing selected steps) of the user unit –see Zigmond, col. 6, lines 40-67.

As for claims 177 and 189, Zigmond and Kauffman teach wherein the configuration information comprises an indication of whether a user delay option is allowed (Since the user is allowed to delay display of the advertisement, it is inherent that the configuration information comprises an indication of whether a user delay option is allowed –see Zigmond, col. 16, lines 35-42).

As for claims 178 and 190, Zigmond and Kauffman teach wherein the configuration information comprises an indication of a maximum number of user delays

per day (The maximum number of delay codes received in a day is the max number of delays per day –see Zigmond, col. 16, lines 33-43).

As for claims 179 and 191, Zigmond and Kauffman teach storing current user interactivity information –see Zigmond, col. 9, lines 20-38, col. 11, lines 13-20.

As for claims 180 and 192, Zigmond and Kauffman teach the current user interactivity information comprises a number of advertisement delays executed in a current day (The delay code is embedded in the programming. Therefore, the number of commercial shown to the user in a day is the number of advertisements delayed in a day. –see Zigmond, col. 16, lines 33-43).

As for claims 181 and 193, Zigmond and Kauffman teach wherein the current user interactivity information comprises a number of delays executed upon the at least one advertisement – (see Zigmond, Delay it once to display the ad - col. 16, lines 35-42).

As for claims 194 and 196, Zigmond and Kauffman teach wherein the delay tag is associated with the user unit. In particular, Zigmond teaches local time is used to select an appropriate advertisement in situations where a program is broadcast simultaneously to viewers in different time zones...(col. 13, lines 58-67). Therefore, the delay tag indicates to viewers on the west coast to display advertising at a specified

time and likewise with viewers on the east coast. In other words, user units on the west coast will display advertising at one time and likewise with user units on the east coast.

4. Claims 89-90 and 165-166 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond in view of Kauffman as applied to claim 85 above, and further in view of Berezowski (6,075,551).

As for claims 89 and 165, Zigmond and Kauffman fail to teach wherein said delay tag also indicates a non-advertising programming (NAP) threshold defining a maximum amount of NAP that may be displayed before the at least one advertisement must be displayed, and said displaying comprises:

determining an amount of NAP that has already been displayed; and  
displaying said at least one advertisement without delay if said amount of NAP that has already been displayed is greater than or equal to the NAP threshold.

In an analogous art, Berezowski teaches advertisements are inserted at specified start times (after maximum amount of NAP has been displayed) – col. 4, lines 4-15, col. 6, lines 45-59, col. 7, lines 4-20.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Zigmond and Kauffman's invention to include the abovementioned limitations, as taught by Berezowski, in order to have advertisements properly spaced out.

As for claims 90 and 166, Zigmond and Kauffman fail to teach wherein said amount of NAP is defined by an accumulated time of display of NAP.

In an analogous art, Berezowski that after a certain amount of NAP is displayed, the advertisement is displayed. - col. 4, lines 4-15, col. 6, lines 45-59, col. 7, lines 4-20.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Zigmond and Kauffman's invention to include the abovementioned limitations, as taught by Berezowski, in order to have advertisements properly spaced out.

5. Claims 195 and 197 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond and Kauffman as applied to claims 85 and 145, respectively above, and further in view of Rabowsky (6141530).

As for claim 195, Zigmond and Kauffman teach:

Retrieving the at least one advertisement and displaying the at least one advertisement as discussed above in claim 85.

However, Zigmond and Kauffman fail to teach:

Decrypting the at least one advertisement;

Decompressing the at least one advertisement;

In an analogous art, Rabowsky teaches:

Decrypting content – col. 13, lines 40-46;

Decompressing content – col. 13, lines 40-46;

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Zigmond and Kauffman's invention to include the above mentioned limitation, as taught by Rabowsky, in order to enable the user to view the content.

As for claim 197, Zigmond and Kauffman fail to teach:

A compressor/decompressor; and

An encryptor/decrypter,

Wherein the controller is operative to store the at least one advertisement in memory after compression and encryption of the at least one advertisement, and to decrypt and decompress the at least one advertisement after retrieval from the memory;

In an analogous art, Rabowsky teaches:

A compressor (128 – fig. 4; col. 10, lines 12-20)/decompressor (86 – fig. 2; col. 13, lines 40-46); and

An encryptor (130 – fig. 4; col. 10, lines 12-20)/decrypter (74 – fig. 2; col. 13, lines 40-46),

Wherein the controller is operative to store the at least one advertisement in memory after compression and encryption of the at least one advertisement (col. 10, lines 12-20), and to decrypt and decompress the at least one advertisement after retrieval from the memory (col. 13, lines 40-46);

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Zigmond and Kauffman's invention to include the above

mentioned limitation, as taught by Rabowsky, for the advantage of secure electronic delivery and authorized viewing.

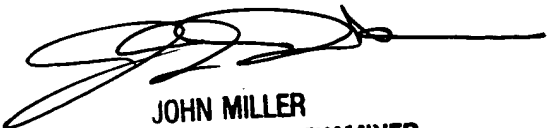
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sumaiya A. Chowdhury whose telephone number is (571) 272-8567. The examiner can normally be reached on Mon-Fri, 9-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SAC

  
JOHN MILLER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600